

**Terminal Disclaimer To Obviate A Double  
Patenting Rejection Over A Prior Patent**

Docket No.  
**2003B079**

In Re Application Of:

**Waddell, et al.**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
<b>09/852,404</b>	<b>01 August 2003</b>	<b>RONESI, Vickey M.</b>	<b>23455</b>	<b>1714</b>	<b>8961</b>

Invention:

**Elastomeric Composition**

Owner of Record:

**ExxonMobil Chemical Patents Inc.**

**COMMISSIONER FOR PATENTS:**

The above-identified owner of record of a 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,626,219. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors and/or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1.  For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2.  The undersigned is an attorney of record.

  
\_\_\_\_\_  
Signature

Dated: 14 February 2005

**Leandro Arechederra (Reg. No. 52,457)**

*Typed or Printed Name*

- Terminal disclaimer fee under 37 C.F.R. 1.20(d) included.  
 PTO suggested wording for terminal disclaimer was unchanged.  
 Certification under 37 C.F.R. 3.73(b) is required if terminal disclaimer is signed by the assignee.

**TERMINAL DISCLAIMER TO OBViate A PROVISIONAL DOUBLE  
PATENTING REJECTION OVER A PENDING SECOND APPLICATION**

 Docket No.  
2003B079

In re Application of: **Waddell, et al.**  
 Application No. **10/633,001**  
 Filed: **01 August 2003**  
 For: **Elastomeric Composition**

The owner, **ExxonMobil Chemical Patents Inc**, of **100.00** percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application Number **10/398,301**, filed on **10/16/2001**. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent, expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2, if appropriate.

1.  For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

2.  The undersigned is an attorney of record.

3. Owner/applicant is  Small entity  Large entity

The terminal disclaimer fee under 37 CFR 1.20(d) is **\$130.00** and is to be paid as follows:

- A check in the amount of the fee is enclosed.  
 The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number **05-1712**.  
 Payment by credit card. Form PTO-2038 is attached.

\ **WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

PTO suggested wording for terminal disclaimer was

- unchanged.  changed (if changed, an explanation should be supplied.)

  
 Signature

Name and Address of Person Signing  
 Customer Number: 23455

Leandro Arechederra (Reg. No. 52,457)  
 ExxonMobil Chemical Company  
 Law Technology  
 P. O. Box 2149  
 Baytown, Texas 77522-2149  
 United States of America

Dated: **14 February 2005**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on \_\_\_\_\_.  
 (Date)

*Signature of Person Mailing Correspondence*

\*\*\*Please See Certificate of Facsimile

Typed or Printed Name of Person Mailing Correspondence

Doc Code:

Approved for use through 07/31/2008. OMB 0651-0032  
 Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE  
 Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTO/SB/17 (12-04v2)

*Effective on 12/08/2004.*  
*Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).*

# FEE TRANSMITTAL for FY 2005

Applicant claims small entity status. See 37 CFR 1.27

**TOTAL AMOUNT OF PAYMENT (\$)** **\$130.00**

### Complete If Known

Application Number	10/633,001
Filing Date	01 August 2003
First Named Inventor	Waddell, et al.
Examiner Name	Ronesi, Vickey M.
Art Unit	1714
Attorney Docket No.	2003B079

### METHOD OF PAYMENT (check all that apply)

Check  Credit Card  Money Order  None  Other (please identify): \_\_\_\_\_  
 Deposit Deposit Account Number: 05-1712 Deposit Account Name: ExxonMobil Chemical Company

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

- Charge fee(s) indicated below  Charge fee(s) indicated below, except for the filing fee  
 Charge any additional fee(s) or any underpayment of fee(s) under 37 CFR 1.16 and 1.17  Credit any overpayments

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-263A.

### FEE CALCULATION

#### 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

<u>Application Type</u>	<u>FILING FEES</u>		<u>SEARCH FEES</u>		<u>EXAMINATION FEES</u>		
	<u>Fee (\$)</u>	<u>Small Entity Fee (\$)</u>	<u>Fee (\$)</u>	<u>Small Entity Fee (\$)</u>	<u>Fee (\$)</u>	<u>Small Entity Fee (\$)</u>	<u>Fees Paid (\$)</u>
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

#### 2. EXCESS CLAIM FEES

##### Fee Description

Each claim over 20 (including Reissues)

Each independent claim over 3 (including Reissues)

Multiple dependent claims

<u>Total Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>	<u>Small Entity</u>	
				<u>Fee (\$)</u>	<u>Fee (\$)</u>
- 20 or HP =	x	\$50.00	= \$0.00	50	25
HP = highest number of total claims paid for, if greater than 20.				200	100

<u>Indep. Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>	<u>Small Entity</u>	
				<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
- 3 or HP =	x	\$200.00	= \$0.00	360	180

HP = highest number of independent claims paid for, if greater than 3.

#### 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listing under 37 CFR 1.92(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each additional 50 or fraction thereof</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
- 100 =	/ 50 ...	(round up to a whole)	x .5250.00	= \$0.00

#### 4. OTHER FEE(S)

Non-English specification, \$130 fee (no small entity discount)

Other (e.g. late filing surcharge): 1 Terminal Disclaimer

(105P 6, 626,219)

\$130.00

### SUBMITTED BY

Signature		Registration No. (Attorney/Agent)	52,457	Telephone	281-834-2173
Name (Print/Type)	Leandro Arcchederra		Date	14 February 2005	

This collection of information is required by 37 CFR 1.138. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.